

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

THE STATE OF ARIZONA,
Appellee,

v.

DAVID STEVEN EMEL,
Appellant.

No. 2 CA-CR 2019-0025
Filed October 3, 2019

THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
NOT FOR PUBLICATION
See Ariz. R. Sup. Ct. 111(c)(1); Ariz. R. Crim. P. 31.19(e).

Appeal from the Superior Court in Pima County
No. CR20180870001
The Honorable Deborah Bernini, Judge

AFFIRMED

COUNSEL

Joel Feinman, Pima County Public Defender
By Michael J. Miller, Assistant Public Defender, Tucson
Counsel for Appellant

STATE v. EMEL
Decision of the Court

MEMORANDUM DECISION

Judge Espinosa authored the decision of the Court, in which Presiding Judge Eppich and Judge Eckerstrom concurred.

ESPINOSA, Judge:

¶1 After a jury trial, David Emel was convicted of third-degree burglary and sentenced to a one-year prison term. Counsel has filed a brief in compliance with *Anders v. California*, 386 U.S. 738 (1967), and *State v. Clark*, 196 Ariz. 530 (App. 1999), stating he has reviewed the record but found no “arguably meritorious issue to raise on appeal” and asking this court to review the record for error. Emel has filed a supplemental brief arguing there was no evidence of the “intent and prior planning” required to convict him of burglary. He also appears to assert his trial counsel was ineffective, but that claim cannot be raised on appeal and must instead be raised in a petition for post-conviction relief. See *State v. Spreitz*, 202 Ariz. 1, ¶ 9 (2002).

¶2 Viewed in the light most favorable to sustaining the jury’s verdict, see *State v. Tamplin*, 195 Ariz. 246, ¶ 2 (App. 1999), the evidence is sufficient here, see A.R.S. § 13-1506(A). In February 2018, Emel and another individual entered a warehouse and removed computers and a printer belonging to the building owners. Evidence of intent and prior planning may be inferred from those actions. And the sentence is within the statutory range. See A.R.S. §§ 13-702(D), 13-1506(B).

¶3 Pursuant to our obligation under *Anders*, we have searched the record for error and found none. And, we have reviewed the issues identified by Emel’s supplemental brief and have determined they are not arguable issues requiring further briefing. See *State v. Thompson*, 229 Ariz. 43, ¶ 3 (App. 2012). Accordingly, Emel’s conviction and sentence are affirmed.